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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,922	02/21/2006	Payagalage Surendre Gerard Percera	IPLTP0104US	9226

7590 06/26/2007  
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1621 Euclid Avenue  
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Cleveland, OH 44115

EXAMINER

MAI, HAO D

ART UNIT	PAPER NUMBER
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3709

MAIL DATE	DELIVERY MODE
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06/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/568,922

**Applicant(s)**PERERA, PAYAGALAGE  
SURENDRE GERARD**Examiner**

Hao D. Mai

**Art Unit**

3709

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claim 4** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The eyelet 8 in figures 1 and 3 is understood to be the claimed attachment means. However, there is no description of how the attachment means (i.e. eyelet) would allow for attachment of restraining means to temporarily restrain the action of the spring to facilitate fitting of the brace.

Note that claim 4 is further rejected under prior art (below) as best understood.

### *Claim Objections*

3. Claims 1 is objected to because of the following informalities:
  - a. The semicolon in line 10 should be a period. Correction is required.
  - b. The limitation “spring with no tooth-borne component” (lines 8-10) is not consistent with the drawings. The drawings demonstrate the springs being very much tooth-borne as they are attached to the molars via the gripping bands, tubes, and arms of the side pieces. Correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bowman et al. (U.S. Pub. No. 2003/0091952 A1).**

In Reference to Claim 1:

A corrective orthodontic brace (Figure 5) comprising:

- a support plate (106), so shaped as to fit closely, in use, against the keratinised tissue of a user's palate, whilst seating adjacent but free of the incisive papilla;
- side pieces (102 and 104) extending from opposite side regions of said support plate to lie, in use, adjacent respective upper molars on opposite sides of the mouth and adapted to grip the or each such molar to be corrected, via a connection which will allow the molar to move relative to the support plate;
- spring means (144 and 146), acting to bias the or each molar gripped by a side piece away from the front of a user's mouth by transmitting the resultant force to said support plate, with no tooth-borne component.

In Reference to Claim 2:

The orthodontic brace of claim 1 wherein the spring means is incorporated into the side pieces (paragraph 3). *Figure 5 shows the springs 144 and 146 being incorporated into the side pieces 102 and 104 respectively.*

In Reference to Claim 3:

The orthodontic brace of claim 2 wherein the spring means are adjustable (*paragraph 37*).

In Reference to Claim 4:

The orthodontic brace of claim 1 further comprising attachment means (*108 and 110*), located on the support plate for attachment of restraining means to temporarily restrain the action of the spring means to facilitate fitting of the brace. *The anchoring elements 108 and 110 are located on the support plate and can be used to attach restraining means (such as a wire) which can be looped around the spring to temporarily restrain the spring's tension.*

In Reference to Claim 5:

An orthodontic brace of claim 1 wherein the support plate is contoured to the vertical and horizontal parts of the palate and the rughae (*106; paragraph 34*).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yousefian (U.S. Patent No. 5,829,970), and Keles (U.S. Patent No. 6,626,665 B1) have been included because molar distalization appliances are disclosed.

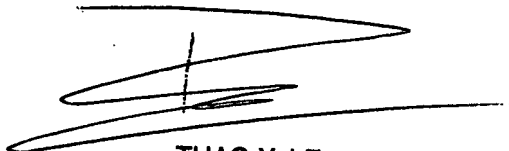
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hao D. Mai whose telephone number is (571) 270-3002. The examiner can normally be reached on Mon-Thur 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Bomberge can be reached at (571) 272-4922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3709

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HDM 6/20/2007

A handwritten signature in black ink, consisting of a stylized 'T' followed by a horizontal line and a vertical stroke.

THAO X. LE  
PRIMARY PATENT EXAMINER